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9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION  
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UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
THUY PHUOC DINH,  
a/k/a Pierre Dinh,  
Defendant.

The undersigned parties respectfully request that the motions hearing and trial current scheduled in the above-captioned case be vacated. Specifically, a motions hearing is currently scheduled for January 22, 2007, along with a pretrial conference on February 15, 2007 and a week long trial commencing on February 26, 2007. Assistant United States Attorney Susan Knight was recently notified by the defendant's attorney's Anne Marie Tomassini and Robert Amparan, that, for several reasons, they are requesting that the trial date be vacated. As stated in Ms. Tomassini's declaration, the government recently obtained the evidence in this case from the Drug Enforcement Administration in Philadelphia for her review. The evidence was reviewed by Ms. Tomassini on December 1, 2006, and there are several other pieces of physical evidence that the government needs to make available for her review. The government anticipates making such evidence available before the end of the year. In addition, Ms. Tomassini further stated in her declaration that a continuance is needed because of respective counsels' holiday schedules and other trials. For example, Mr. Amparan has a trial set for mid-March. The government does not object to the continuance. Therefore, the parties respectfully request that the following motions and trial schedule be set:

1 last one week.

2 The parties also request that an exclusion of time under the Speedy Trial Act from December 11,  
3 2006 until February 26, 2007. The parties agree and stipulate that an exclusion is appropriate  
4 based upon effective preparation of defense counsel and for continuity of defense counsel. In  
5 addition, the government needs to provide additional discovery for defense counsel's review.

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7 SO STIPULATED.

KEVIN V. RYAN  
United States Attorney

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9 DATED: \_\_\_\_\_

/s/  
\_\_\_\_\_  
SUSAN KNIGHT  
Assistant United States Attorney

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11 DATED: \_\_\_\_\_

/s/  
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ANNE MARIE TOMASSINI  
Counsel for Mr. Pierre Dinh

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16 Accordingly, the Court HEREBY ORDERS that the motions hearing scheduled for  
17 January 22, 2007 at 9:00 a.m. be vacated. In addition, the Court vacates the pretrial conference  
18 scheduled for February 15, 2007 at 9:00 a.m. and trial commencing on February 26, 2007. The  
19 Court ORDERS the above-referenced briefing schedule and that a motion hearings be scheduled  
20 for April 16, 2007. The Court ORDERS that the pretrial conference be scheduled for April 23,  
21 2007 and that the trial commence on May 14, 2007.

22 The Court FURTHER ORDERS that the time between December 11, 2006 and February  
23 26, 2007 is excluded under the Speedy Trial Act. The Court finds that the failure to grant the  
24 requested continuance would deny the defendant effective preparation of defense counsel and  
25 continuity of defense counsel. The Court finds that the ends of justice served by granting the  
26 requested continuance outweigh the best interest of the public and the defendant in a speedy trial  
27 and in the prompt disposition of criminal cases. The Court therefore concludes that this  
28 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and 3161(h)(8)(B)(iv).

1 IT IS SO ORDERED.

2  
3 1/10/07

4 Dated

/s/ Ronald M. Whyte

RONALD M. WHYTE

United States District Judge